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Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

Note by the Secretariat

The present report, submitted pursuant to Human Rights Council resolution 26/18, explores the obligations of Member States of the United Nations and non-State actors regarding sport and healthy lifestyles as contributing factors to the right to health, with a focus on sport and physical activity. The Special Rapporteur recommends that States review their laws, policies and programmes concerning sport and healthy lifestyles to ensure compliance with the right to health, immediately removing those that are discriminatory or exclusionary, and implement or enforce mechanisms to protect the health rights of amateur and professional athletes. States should also take positive steps to fulfil the right to health by facilitating or providing access to safe spaces in which all people can participate in sport and physical activity.

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I. Introduction

1. In its resolution 26/18, the Human Rights Council requested that the Special Rapporteur prepare, in consultation with relevant stakeholders, a study on the theme of sport and healthy lifestyles as contributing factors to the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, and requested that the Special Rapporteur undertake a consultation process exploring those themes. The present report is submitted in accordance with that resolution, and was prepared on the basis of a questionnaire sent to States and relevant stakeholders[1] and an expert meeting that was held in Geneva in November 2015.

2. The present report explores the obligations of Member States of the United Nations and non-State actors regarding realization of the right to health and sport and healthy lifestyles. The Special Rapporteur has chosen to focus on the evidence and the relevant obligations that arise in relation to sport and physical activity, building upon the important work carried out by the previous mandate holder on unhealthy foods, non-communicable diseases and the right to health.[2]

II. Sport and healthy lifestyles and the right to health

3. In its 2011 resolution on the prevention and control of non-communicable diseases, the General Assembly, in reaffirming the right of everyone to the highest attainable standard of mental and physical health, acknowledged that the global burden and threat of non-communicable diseases constituted "one of the major challenges for development in the twenty-first century". The General Assembly recognized that many non-communicable diseases are linked to common risk factors, including tobacco use, harmful use of alcohol, an unhealthy diet and lack of physical activity.[3] Non-communicable diseases have a disproportionate impact on women's health and are the leading cause of death in women globally, killing around 18 million women a year.[4]

4. In order to combat the growing threat of non-communicable diseases effectively, and to equitably realize the highest attainable standard of mental and physical health across populations, all people must be enabled to adopt healthy lifestyles. Article 12 of the International Covenant on Economic, Social and Cultural Rights refers to the highest attainable standard of physical and mental health, which the Committee on Economic, Social and Cultural Rights has confirmed is not confined to the right to health care, but embraces a wide range of socioeconomic factors that promote conditions in which people can lead a healthy life;[5] these include the readily modifiable risk factors for non-communicable diseases identified by the General Assembly.

5. In other United Nations documents, participation in sport and physical activity is recognized as a stand-alone right. The recently revised International Charter of Physical Education, Physical Activity and Sport (of the United Nations Educational, Scientific and

[1] Replies to the questionnaire are available as received at www.ohchr.org/EN/Issues/Health/Pages/HealthyLifestylescontributions.aspx.

[2] See A/HRC/26/31.

[3] See General Assembly resolution 66/2.

[4] Union for International Cancer Control and 4 others, *Non-communicable Diseases: A Priority for Women's Health and Development* (2011).

[5] Committee on Economic, Social and Cultural Rights, general comment No. 14 (2000) on the right to the highest attainable standard of health.

Cultural Organization) recognizes that the practice of physical education, physical activity and sport is a fundamental right for every human being, without discrimination. Equal participation in sport as a right has also been recognized in article 13 of the Convention on the Elimination of All Forms of Discrimination Against Women and in article 30 of the Convention on the Rights of Persons with Disabilities.

6. Moreover, in 2004, the World Health Assembly endorsed the Global Strategy on Diet, Physical Activity and Health, of the World Health Organization (WHO), which outlines actions that must be taken by various actors to foster participation in physical activity.

7. The present report primarily considers participation in sport and physical activity, and the right to health. Other lifestyle factors, such as the avoidance of unhealthy foods, are beyond the scope of the report, and will be discussed to the extent that they are connected to sport and healthy lifestyles.

Sport, physical activity and health

8. It has been estimated that over 7 per cent of deaths annually are attributable to low levels of physical activity, along with more than 4 per cent of years of life lost due to disability (disability-adjusted life years).[6] Physical inactivity is estimated as being responsible for up to 25 per cent of cases of breast and colon cancer, 27 per cent of cases of diabetes and 30 per cent of cases of ischaemic heart disease.[7] Conversely, participation in physical activity and sport has numerous beneficial effects. Physical activity reduces the risk of developing cardiovascular diseases, diabetes and cancer, improves levels of high-density cholesterol, reduces blood pressure, and improves blood glucose level control among the overweight.[8] Physical activity also reduces the risk of depression and is a vital aspect of energy balance and weight control.[9] Accordingly, WHO has developed the Global Recommendations on Physical Activity for Health, which are designed to provide guidance on the optimal and the minimum levels of exercise that individuals should partake in to accrue these health benefits.

9. There is no universal definition for "sport", as a separate concept to that of physical activity. Sport has been defined as "all forms of physical activity that contribute to physical fitness, mental well-being and social interaction", including play, recreation, casual, organized or competitive sport, and indigenous sport or games.[10] In the present report, "sport" refers to competitive or organized sport involving physical activity; it is considered a subset of "physical activity", which refers to bodily movement that is not necessarily competitive or organized (e.g. walking or cycling for transport or recreation).

10. The benefits of sport, over and above unstructured physical activity, have not yet been fully ascertained, and more research is required in this area. However, preliminary findings indicate that a larger quantum of health benefit is gained from low-to-moderate participation in team sports than in more individual activities such as walking or gymnasium use.[11] Positive psychological outcomes, including improved well-being and

[6] Institute for Health Metrics and Evaluation, *The Global Burden of Disease: Generating Evidence, Guiding Policy* (Seattle, 2013).

[7] WHO, *Global Health Risks: Mortality and Burden of Disease Attributable to Selected Major Risks* (2009).

[8] WHO, *Global Strategy on Diet, Physical Activity and Health* (2004).

[9] WHO, *Global Recommendations on Physical Activity for Health* (2010).

[10] UNICEF, *Protecting Children from Violence in Sport* (2010).

[11] Rochelle Eime and others, "Does sports club participation contribute to health-related quality of life?" *Medicine and Science in Sports and Exercise*, vol. 42, No. 5 (December 2009).

social functioning and reduced stress, are reported more frequently among sports participants,[12] as is improved life satisfaction.[13] Additionally, although any form of daily physical activity is associated with a lowered risk of psychological distress, the strongest effect is seen in sport (as opposed to other activities such as walking or domestic work).[14]

11. However, overtraining, doping and the performing of unnecessary medical procedures can have negative health impacts on individuals, and may represent rights violations in some instances. Moreover, certain types of sport or physical activity may produce positive effects in some subpopulations and negative effects in others.[15] For instance, participation in sporting activities where physical appearance is an important factor may increase the risk of developing female athlete triad, a syndrome suffered by female athletes which may involve eating disorders, delayed or interrupted menstruation, and osteoporosis (low bone mass). This syndrome is usually caused by self-imposed or externally driven pressure to maintain an unrealistically low body weight. For these reasons, a nuanced approach is required when considering sport and physical activity as a tool for realizing the right to health.

III. Obligations of States regarding sport and healthy lifestyles and the right to health

12. In its general comment No. 14 (2000) on substantive issues arising in the implementation of the International Covenant on Economic, Social and Cultural Rights, the Committee on Economic, Social and Cultural Rights confirmed that certain aspects of human health cannot be addressed solely within the relationship between States and individuals, and noted that various factors may play an important role in relation to human health, such as genetic factors or the adoption of unhealthy or risky lifestyles. However, this does not absolve States of any obligations in this regard. Just as a State may implement a genetic diseases screening project to improve the health of the population despite being unable to modify genetic risk, an obligation also arises for States to attempt to reduce the extent to which individuals adopt unhealthy or risky lifestyles, even if they cannot directly influence individual behaviour.

13. There has been a troubling tendency to view engagement in physical activity as an individual or moral obligation, and to characterize a sedentary lifestyle as a personal failing, to be overcome with willpower. This ignores the powerful role that social or structural determinants of health play in dictating supposed lifestyle "choices", and the vital role of the State in mitigating the effect of such negative determinants by promoting, facilitating and encouraging the adoption of healthy lifestyles through education, social policy and public investments.[16] Illustrating this principle, the Committee on Economic, Social and Cultural Rights has expressly stated that the obligation to "fulfil" requires States to disseminate appropriate information relating to healthy lifestyles and nutrition and to

[12] Rochelle Eime and others, "A systematic review of the psychological and social benefits of participation in sport for adults: informing development of a conceptual model of health through sport", *International Journal of Behavioral Nutrition and Physical Activity*, vol. 10 (December 2013).

[13] Runar Vilhjalmsson and Thorolfur Thorlindsson, "The integrative and physiological effects of sport participation: a study of adolescents", *Sociological Quarterly*, vol. 33, No. 4.

[14] Mark Hamer, Emmanual Stamatakis and Andrew Steptoe, "Dose-response relationship between physical activity and mental health: the Scottish Health Survey", *British Journal of Sports Medicine*, vol. 43, No. 14.

[15] Melinda Asztalos and others, "Specific associations between types of physical activity and components of mental health", *Journal of Science and Medicine in Sport*, vol. 12, No. 4.

[16] WHO, Report of the Commission on Ending Childhood Obesity (2016).

encourage and support people in making informed choices about their health;[17] this encompasses provision of appropriate information regarding sport and physical activity, and ensuring the availability, accessibility, acceptability and quality of certain goods, services and facilities.

14. Additionally, article 12 of the International Covenant on Economic, Social and Cultural Rights requires States parties to take steps necessary for the prevention, treatment and control of epidemic, endemic, occupational and other diseases. As overweight and obesity reach endemic levels in much of the world, and are becoming increasingly prevalent in developing countries,[18] States should address the underlying determinants of these diseases — such as a sedentary lifestyle — in fulfilment of their obligation pertaining to prevention. This conclusion is supported by the General Assembly, which recognizes prevention as the "cornerstone" of the global response to non-communicable diseases, and the "critical importance" of reducing people's exposure to modifiable risk factors related to diet and physical inactivity.[19]

15. In order to discharge these obligations that are accrued under the right to health, States should take varying actions depending on their particular state of development and availability of resources.

Respect

16. The obligation to respect the right to health by refraining from denying or limiting access to health services and by abstaining from enforcing discriminatory practices as a State policy extends to participation in sport and physical activity. All people should be permitted to access State-run sporting facilities on an equal basis. Discrimination in access on grounds such as gender, race, ethnicity, religion, sexual orientation, gender identity, sex characteristics, or legal and health status (including HIV/AIDS status) is not permissible. States should conduct an inclusive, participatory and transparent audit of practices, rules and by-laws relating to sport and the right to health in order to determine their compatibility with human rights standards and should remove any which are discriminatory.

17. Moreover, sport and physical activity should be taken into account in all governmental policies, in accordance with the Helsinki Statement on Health in All Policies.[20] States must ensure that relevant laws, policies and programmes in non-health sectors, which are de jure or de facto discriminatory, are not adopted, or are amended or rescinded. For example, States should refrain from implementing and enforcing laws and policies that limit equitable access to goods such as affordable and nutritious food and clean water, and allow people to adopt healthy diets and fully participate in physical activity. Similarly, States should revise planning policies that inequitably allocate communal spaces for public recreation and exercise, or that concentrate infrastructure for active transport, such as walking, cycling and skating, in affluent areas.

18. Finally, States should refrain from interfering with athletes' health rights by means of laws, policies or programmes involving forced or coercive medical treatments or experimentation, such as doping, conducted in order to enhance sporting ability among athletes.

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[17] See general comment No. 14.

[18] WHO, *Global Status Report on Non-communicable Diseases* (2014).

[19] See General Assembly resolution 66/2.

[20] See www.who.int/healthpromotion/conferences/8gchp/8gchp_helsinki_statement.pdf.

Protect

19. States should ensure full compatibility between sport policies, rules, programmes and practices, and human rights law, and should intensify their efforts to prevent systemic and ad hoc rights violations perpetrated by third parties. States should develop policies that incorporate international human rights standards, and should require public and third-party providers to adopt policies that are compatible with human rights standards, making funding or support contingent on that adoption, where appropriate. For example, sport policy programmes could require national sports organizations to respect the Convention on the Rights of the Child and to conduct mandatory monitoring of child rights in sports.

20. States should also provide training and materials to sports organizations on the adoption of rights-based approaches to health in the sporting context. These should include information on protection against physical, sexual and psychological abuse, exploitation and violence, on protection against discrimination and on gender equality, on appropriate limits for intensive training, especially for children and young people, on protection against coercive/forced doping and medical procedures, and on other rights connected to the right to health and sport, such as young athletes' right to an education.

21. Protection of the human rights of those participating in sport and physical activity is a State obligation under the right to health. There are numerous documented instances of health rights abuses within competitive sport: the General Assembly has acknowledged with concern "the dangers faced by sportsmen and sportswomen, in particular young athletes, including, inter alia, child labour, violence, doping, early specialization, overtraining and exploitative forms of commercialization, as well as less visible threats and deprivations, such as the premature severance of family bonds and the loss of sporting, social and cultural ties".[21]

22. Such practices also exist at the amateur level but are less well researched. For example, injury, illness and violence arising in the context of organized children's sport is frequently documented, but the extent to which it occurs globally is still unknown.[22] In some instances, breaches of the health rights of athletes occur with the knowledge or tacit consent of the State, especially in the competitive context. However, such violations of athletes' human rights are rarely addressed in a systematic manner, probably because of the positive image of sports.[23]

23. Many rights violations stem from a "winning at all costs" mentality that is tolerated or actively encouraged by States, particularly in competitive sporting contexts. A certain level of "healthy" sporting competition can foster participation, encourage individuals to strive for excellence, empower women and girls, and in many instances, increase individual enjoyment. However, appropriate safeguards should be implemented to ensure the protection of all amateur and professional athletes. As a broad, overarching principle, States should create an inclusive sporting environment wherein an optimal level of competitiveness is reached, and those participating in sports are protected from the harmful effects of overly competitive environments.

24. States should provide mechanisms through which normative review and legal enforcement, as pertains to alleged health rights violations, can occur. There should be no barrier to the investigation and prosecution of such incidents, as competitive and amateur sports are as subject to international human rights law as any other activity undertaken within a State's jurisdiction. As an interim option or an alternative, it may be necessary or

[21] See General Assembly resolution 58/5.
[22] UNICEF, *Protecting Children from Violence in Sport*.
[23] Paulo David, *Human Rights in Youth Sport* (London, Routledge, 2005).

most effective for States to create independent complaints and monitoring mechanisms, potentially using existing human rights institutions, that people can utilize in the event of an alleged breach of their right to health in the sporting context. These could allow for redress and remedy through alternative dispute resolution mechanisms, such as mediation and arbitration. However, this should not preclude the referral of serious violations to national courts, especially allegations of criminal activity, which must be treated as criminal activity as in any other setting.

Fulfil

25. States should take action to ensure that sufficient resources and infrastructure are devoted to enabling people to access and participate in sport and physical activity, as part of a broader strategy to encourage the adoption of healthy lifestyles. Three primary steps must be taken by States in this regard. Firstly, States should immediately include the facilitation and promotion of physical activity and healthy lifestyles in national planning, if this has not already been done. Secondly, quality physical education programmes, including in school and health-care settings, should be established (or updated) in accordance with human rights standards. Finally, progressive implementation, expansion and/or improvement of goods, facilities, services and information provision relevant to sport and healthy lifestyles should be undertaken, subject to resource constraints.

26. The incorporation of physical activity and healthy lifestyles into existing national health plans, or the development of such a plan, should be a foremost priority of States under the right to health, as a core obligation that is not subject to the principle of progressive realization, alongside non-discrimination. The Global Strategy on Diet, Physical Activity and Health encourages States to build on existing national strategies and action plans concerning aspects of diet, nutrition and physical activity, and to create a national coordinating mechanism that addresses diet and physical activity within a comprehensive plan for preventing non-communicable diseases and promoting health.[24] However, in many countries, there is alarmingly little planning: WHO has noted a paucity of national physical activity guidelines in low- and middle-income countries, and has confirmed that the public health significance of physical activity warrants the development of such guidelines.[25] Such guidelines must be developed in reference to prevailing evidence and good practices in the region concerned.

27. Multisectoral collaboration can be a successful means of achieving national physical activity goals; for this, communication and cooperation between different parts of the government is vital. Some States have achieved multisectoral collaboration through formal cooperation agreements between relevant ministries; for example, Greece reports using a "cooperation protocol" between the ministries concerned in order to implement common physical activity interventions in schools, the workplace and public places. What is appropriate will vary according to national circumstances, but some framework or mechanism must be established in order to ensure that the collaboration occurs.

28. The importance of multisectoral collaboration is reflected in the Helsinki Statement on Health in All Policies, and in the 2011 Political Declaration of the High-level Meeting of the General Assembly on the Prevention and Control of Non-communicable Diseases wherein the General Assembly encouraged implementation of the Global Strategy on Diet, Physical Activity and Health through the introduction of policies and actions aimed at promoting healthy diets and increasing physical activity in the entire population, in all aspects of daily living. The General Assembly also noted that implementation of the Global

[24] WHO, *Global Strategy on Diet, Physical Activity and Health.*
[25] WHO, *Global Recommendations on Physical Activity for Health.*

Strategy on Diet, Physical Activity and Health in this way could include giving priority to regular physical education classes in schools, and the increased availability of safe environments in public parks and recreational spaces to encourage physical activity.[26]

29. The provision of education is a State obligation under article 13 of the International Covenant on Economic, Social and Cultural Rights, which should include physical education. The right of the child to education is also recognized in article 28 of the Convention on the Rights of the Child. Physical education is not limited to people of school age, however; it is confirmed in the International Charter of Physical Education, Physical Activity and Sport that every human being has a right to physical education, and that physical education, activity and sport programmes must inspire lifelong participation. This is bolstered by other human rights instruments, including the Convention on the Elimination of All Forms of Discrimination against Women which explicitly obliges States to provide women with the same opportunities to participate actively in physical education as men.[27] Accordingly, all States should take steps to update school curricula and other relevant policies to ensure compatibility with the relevant human rights instruments and the International Charter of Physical Education, Physical Activity and Sport. States should also take steps to facilitate or provide access to physical education for people who are not enrolled in formal education.

30. In considering the other steps necessary to increase participation in physical activity, State obligations to facilitate, provide and promote the right to health can be considered separately.

Facilitate

31. States should implement measures to facilitate the use of sporting goods, services, information and facilities. This facilitation can be considered in terms of availability, accessibility, acceptability and quality, and may take the form of economic assistance, or direct interventions or training. Consultations carried out for the present report suggest that, where appropriate, a State might financially partner with private entities to build facilities, in order to improve availability in certain areas or regions. Or, where accessibility is constrained on financial grounds for certain members of the population, subsidized access to sporting goods, services and facilities should be considered. A State might achieve this by implementing a voucher system (Georgia) or by adopting a policy allowing free or low-cost access to group sport or classes (Israel). Other interesting examples include waiving taxation on sporting goods (Brunei) and implementing taxation exemptions for bicycle use (Finland). Finally, States may take steps to improve both the acceptability and the quality of existing resources, by training and sensitizing personnel at sporting facilities within its jurisdiction and by engaging the populations concerned in the design, monitoring and evaluation of sports-related policies, programmes and services.

32. States can take other steps to facilitate the adoption of healthy lifestyles, with a view to ensuring policy coherence and effectiveness. One such measure is the adoption of laws limiting the marketing of tobacco and unhealthy food and beverages in the context of school-based sporting activities and at professional sporting events. Food advertising is frequently geared towards children, and much of it concerns foods with high levels of saturated fat, trans-fatty acids, sugar or salt (referred to hereinafter as "unhealthy foods"); this influences children's preferences, purchase requests and consumption patterns.[28] WHO has recommended that settings where children gather should be free from all forms of

[26] See General Assembly resolution 66/2.
[27] See art. 10 (g).
[28] See General Assembly resolution 66/2.

marketing of unhealthy foods; this includes settings in which sporting or cultural activities for children are held.[29] Regulating or banning the advertising, promotion and sponsorship of tobacco[30] and alcohol[31] in these contexts is also recommended by WHO.

33. States should ban the advertising, promotion and sponsorship of all children's sporting events, and other sporting events which could be attended by children, by manufacturers of alcohol, tobacco, and unhealthy foods. States should create guidelines that either restrict altogether, or minimize the impact of, the marketing of unhealthy foods, alcohol and tobacco in the context of all sporting events.

Provide

34. The construction and maintenance of adequate public spaces for active transport and participation in physical activity is a core State responsibility. Provision of these public goods facilitates equitable adoption of healthy lifestyles, as individuals require few resources to utilize such facilities. For example, States should ensure that safe walking and cycling paths are available and accessible to all people to encourage increased pedestrian and cycling activity for transport and exercise. Similarly, States should provide "green spaces" for people to play sport, exercise, and engage in recreation, especially in the urban context. This is in accordance with the International Charter of Physical Education, Physical Activity and Sport, which confirms that adequate and safe spaces, facilities and equipment are essential to quality physical education and activity, and sport (art. 8).

35. States should also make provision for groups or individuals that are unable to realize their right to health by the means at their disposal. In relation to sport and healthy lifestyles, what this entails will depend on country-specific circumstances and resources. Such steps could include establishing State-run sporting facilities that cater to people unable to access private facilities, or directly sponsoring team-based sports for key populations and groups in vulnerable situations, in order to improve the availability and accessibility of physical activity for those people.

36. Encouragingly, some States provide subsidized or free access to sporting goods, services and facilities to certain groups in society. Sports activities for people with disabilities are free in Azerbaijan, in accordance with a resolution of the Cabinet of Ministers; similarly, in Bosnia and Herzegovina, access to sports camps for children is free. The Special Rapporteur recommends the adoption of similar approaches elsewhere, subject to the needs of the population and resource availability.

Promote

37. The obligation to promote the right to health requires States to take actions to create, maintain and restore the health of the population. In order to fulfil this obligation, a State must: (a) foster recognition of factors favouring positive health results; (b) ensure that services are culturally appropriate; (c) disseminate appropriate information; and (d) support people in making informed choices about their health.

38. States should engage in participatory and transparent research, monitoring and evaluation in order to determine the strategies that most effectively foster full and equal participation in sport and the adoption of healthy lifestyles and improve the health of the populace.

[29] WHO, *Set of Recommendations on the Marketing of Foods and Non-Alcoholic Beverages to Children* (2010).
[30] WHO, *Banning Tobacco Advertising, Promotion and Sponsorship* (2013).
[31] WHO, *Global Strategy to Reduce the Harmful Use of Alcohol* (2010).

39. The needs, experiences and preferences of target populations must be considered when formulating policies or programmes concerning sport and healthy lifestyles, and in constructing facilities. People are entitled to participate in the formulation of policies and programmes that will have a direct impact upon them, and their involvement must be secured from the design stage of any intervention. Moreover, as health behaviour is the product of social structures and practices, interventions should be adapted for specific groups based on the meaning that they attach to healthy lifestyles, in order to ensure relevance and effectiveness.

40. States should take steps to disseminate information to populations on sport and healthy lifestyles. Such dissemination takes two primary forms: physical education, and awareness-raising through the media and other channels. States should raise awareness of the importance of physical activity (outside of formal education mechanisms) and should encourage individuals to participate through public health campaigns. Again, what is appropriate will vary based on the jurisdiction, but encouraging examples are provided by certain States, such as mass exercise on World Day for Physical Activity to promote participation in sport.

41. Finally, States should do more than simply disseminating information on sport and healthy lifestyles to the populace. Steps must be taken to support the adoption of healthy lifestyles, by creating mechanisms through which healthy choices become the easier and preferred option and poor lifestyle choices are avoided. This can occur through structural changes to environments, for example, which create inexpensive and safe active transport options.

IV. Sport and healthy lifestyles and the right to health of key populations and groups

A. Children[32]

42. Specific obligations accrue under the right to health in relation to children and the adoption of healthy lifestyles. Pursuant to article 12 (2) (a) of the International Covenant on Economic, Social and Cultural Rights, States parties are required to take steps necessary to achieve the healthy development of the child; this includes steps to facilitate the participation of children in safe and inclusive play and sport. Moreover, this is consistent with the Convention on the Rights of the Child, which recognizes the right of children to engage in play and recreational activities and requires States to encourage the provision of appropriate and equal opportunities for recreational and leisure activity (art. 31).

43. The benefits of participation in physical activity and sport and the adoption of healthy lifestyles can be especially pronounced for children. Physically active young people have higher levels of cardiorespiratory fitness, better metabolic profiles, improved bone health and fewer symptoms of anxiety and depression. Accordingly, WHO has recommended that children and adolescents should participate in 60 minutes of cumulative

[32] The present report defines "children" as all persons below the age of 18, unless majority is attained earlier under applicable State law, in accordance with art. 1 of the Convention on the Rights of the Child.

physical activity daily.[33] Among adolescents, there is a correlation between participation in organized sport and an increased likelihood of meeting physical activity targets.[34]

44. The benefits of sport and physical activity in relation to holistic development must also be recognized. The United Nations Children's Fund (UNICEF) has identified sport as a tool to help overcome children's social exclusion. Children who have suffered violence and abuse are less likely to participate in organized team sport.[35] However, where efforts are made to include marginalized children, the benefits of participation in sport include changing community perceptions of the capabilities of particular groups, and creating self-empowerment by changing children's perceptions of themselves and their abilities.[36]

45. States should first respect the right to health through the avoidance of discrimination against children as regards their participation in sport and physical activity. Goods, services, facilities and information relating to sport must be equally available to all children, and be safe and appropriate to their age and ability; additionally, provision should be made for children to access separate facilities where it is unsafe for them to use adult facilities.

46. Competitive sport is notable for being one of the few remaining areas within society that has largely failed to integrate human rights standards pertaining to children.[37] In many sports, training must commence at a very early age in order for athletes to be competitive when reaching majority. Eating disorders are more prevalent in adolescents than in the general population, and are particularly prevalent among top athletes.[38] Furthermore, a drift towards professionalism in competitive sport has been associated with compromises of the rights of child athletes, ranging from physical and emotional abuse through to doping, sexual violence and even the trafficking of child and adolescent athletes.[39] The true extent of these problems is unknown, due to challenges in data collection and insufficient research.

47. States should take steps to establish frameworks and minimum standards of care and protection for children participating in sports to protect them from the risks of abuse, overtraining and violence and should promote guidelines for healthy participation in sport at all levels for minors. They should ensure that children and adolescents have recourse to effective, safe and child-sensitive counselling, reporting and complaints mechanisms, in the event of health rights violations. Moreover, children should only engage in intensive training programmes and/or professional sport at ages when their cognitive development is sufficient for them to understand the concept and implications of competition, in order to avoid negative impacts on their early development.

48. International sporting actors must take more action to ensure that the rights of children participating in their competitions or events are protected. Presently, there are no consistent minimum age limits for competing in international adult sporting events, nor is there any coordinated action regarding the international movement of children and adolescents for participation in high-level or professional sport. Responsibility for the well-

[33] WHO, *Global Recommendations on Physical Activity for Health*.

[34] Stewart Vella and others, "Associations between sports participation, adiposity and obesity-related health behaviors in Australian adolescents", *International Journal of Behavioral Nutrition and Physical Activity*, vol. 10, No. 1 (October 2013).

[35] UNICEF, *Protecting Children from Violence in Sport*.

[36] UNICEF, "Inclusive sport", 15 May 2015. Available from www.unicef.org/sports/23619_57597.html.

[37] Paulo David, *Human Rights in Youth Sport*.

[38] Marwan el Ghoch and others, "Eating disorders, physical fitness and sport performance: a systematic review", *Nutrients*, vol. 5, No. 12 (2013).

[39] UNICEF, *Protecting Children from Violence in Sport*.

being of young athletes is often delegated to States or national sporting organizations. International sporting actors should standardize policies and protocols concerning the participation of children in high-level or professional sport in order to protect the children's health and other human rights.

49. Finally, States should take steps to fulfil the right to health of all children by ensuring safe access to sport and physical activity and physical education, and through provision of the goods, services, facilities and information necessary to enable all children's equitable participation.

B. Lesbian, gay, bisexual, transgender and intersex people

50. Historically, sport has often involved forms of "hegemonic masculinity": boys and men have frequently been enabled or encouraged to exhibit aggressive, violent or discriminatory behaviour in competitive sport, including sexism, misogyny, homophobia and transphobia.[40] A welcome shift in this paradigm has occurred in a number of regions and countries where homophobia has decreased, where this has included the area of sports. Nevertheless, levels of homophobia, transphobia, and discrimination against intersex people remain high in most countries. Those who are perceived to fall outside dominant gender and heteronormative standards, including lesbian, gay, bisexual, transgender and intersex people, continue to face discriminatory treatment and restrictions in sport, including discrimination, harassment and violence, and a lack of safe and welcoming spaces for participation.

51. Numerous issues arise in respect of persons who are lesbian, gay or bisexual in the context of sport. In a recent six-country survey, 80 per cent of respondents reported having witnessed or experienced homophobia in sport, and nearly 20 per cent of gay men reported having been assaulted during sports activities.[41] In certain jurisdictions, lesbian athletes have been harassed and subjected to violence, including "corrective rape", on the basis of their sexual orientation.

52. Acts of violence, discrimination and marginalization represent human rights breaches that prevent individuals from achieving the highest attainable standard of health. More must be done to secure the full and safe participation of lesbian, gay and bisexual people in sport and physical activity. States should decriminalize homosexuality and repeal other laws used to arrest and punish individuals on the basis of their sexual orientation, and should protect individuals by implementing and enforcing anti-discrimination laws,[42] including in sport.

53. Moreover, sex segregation policies have led to multiple rights violations in sport. Sex segregation has historically been justified on the basis of safety and fairness, rooted in assumptions of male physical superiority. Various legal decisions have noted that this is a generalization and have granted individual girls and women the right to compete in male sporting competitions — although not vice versa.[43] Although it is important to preserve

[40] Jennifer Hargreaves and Eric Anderson, eds., *Routledge Handbook of Sport, Gender and Sexuality* (Oxford, Routledge, 2014).

[41] Erik Denison and Alistair Kitchen, *Out On The Fields: The First International Study on Homophobia in Sport* (2015).

[42] Paulo David, *Human Rights in Youth Sport*.

[43] Erin Buzuvis, "Transgender student-athletes and sex-segregated sport: developing policies of inclusion for intercollegiate and interscholastic athletics", *Seton Hall Journal of Sports and Entertainment Law*, vol. 21, No. 1 (2011).

spaces for girls and women to confidently participate in sport, this should not result in exclusion of others, such as transgender people.

54. States should identify groups that are currently excluded from sport and physical activity, and through participatory mechanisms, create an inclusive culture wherein lesbian, gay, bisexual, transgender and intersex people and other historically excluded groups and individuals can fully and safely participate in sport.

Intersex people

55. Current and historic policies have resulted in intersex people — those born with sex characteristics that do not fit with typical binary sex categorization — experiencing multiple rights violations. Sex testing has frequently been conducted to avoid the apparent threat of "sex fraud" (participating under an assumed gender to obtain a competitive advantage).[44] However, no single test "determines" gender. In the recent past, women athletes have undergone chromosomal testing, only to discover that they do not possess two X chromosomes. This has led to stigmatization and to spurious exclusion from competitive sport.[45]

56. Recently, certain international and national sporting federations have instead introduced policies banning women with testosterone levels exceeding a certain threshold from participating in competitive sport. However, there is insufficient clinical evidence to establish that those women are afforded a "substantial performance advantage" warranting exclusion.[46] Although currently suspended, following the interim judgement in *Chand v. Athletics Federation of India and the International Association of Athletics Federations*,[47] these policies have led to women athletes being discriminated against and forced or coerced into "treatment" for hyperandrogenism. In fact, a number of athletes have undergone gonadectomy (removal of reproductive organs) and partial cliteroidectomy (a form of female genital mutilation)[48] in the absence of symptoms or health issues warranting those procedures.[49]

57. Sporting organizations must implement policies in accordance with human rights norms and refrain from introducing policies that force, coerce or otherwise pressure women athletes into undergoing unnecessary, irreversible and harmful medical procedures in order to participate as women in competitive sport. States should also adopt legislation incorporating international human rights standards to protect the rights of intersex persons at all levels of sport, given that they frequently report bullying and discriminatory behaviour,[50] and should take steps to protect the health rights of intersex women in their jurisdiction from interference by third parties.

Transgender people

58. Participation in professional sport is often deliberately or effectively denied to transgender people, and people of non-binary gender. There remains uncertainty regarding

[44] J.C. Reeser, "Gender identity and sport: is the playing field level?" *British Journal of Sports Medicine*, vol. 39, No. 10.

[45] Erin Buzuvis, "Transgender student-athletes…"

[46] J.C. Reeser, "Gender identity and sport: is the playing field level?"

[47] CAS 2014/A/3759, Court of Arbitration for Sport.

[48] J.C. Reeser, "Gender identity and sport: is the playing field level?"

[49] Rebecca Jordan-Young, Peter Sönksen and Katrina Karkazis, "Sex, health and athletes", *British Medical Journal*, vol. 348.

[50] Tiffany Jones and others, *Intersex: Stories and Statistics from Australia* (Open Book Publishers, 2016).

"classification" by sports bodies of persons as male or female within sex-segregated sport — for those undergoing gender transition through clinical treatment and for those who are not — as well as concerns with regard to the arbitrary nature of such classifications. The barriers that this presents to participation are unwarranted and unfair.

59. Encouragingly, the recent consensus statement of the International Olympic Committee on sex reassignment and hyperandrogenism addresses this issue. However, consensus should be reached among all international sporting bodies and national governments, in consultation with transgender organizations, on participation by transgender people and non-binary people in sporting competitions. Policies must reflect international human rights norms, should not exclude transgender people and non-binary people from participation and should not require irrelevant clinical data or unnecessary medical procedures as a precondition to full participation.

60. At the amateur level, sporting facilities and teams can be hostile spaces for transgender athletes, including non-binary people. Barriers include poorly designed changing rooms, requirements to wear clothing that might cause individual discomfort or hinder bodily movement, and restrictions on the use of sex-segregated bathrooms.

61. The repeal of laws criminalizing transgender people on the basis of their gender identity or expression, and the legal recognition of gender identity based on self-identification (without abusive requirements) is a prerequisite for transgender people to access sports and enjoy healthy lifestyles. States, sporting organizations and other actors should adopt anti-discrimination policies that permit all persons to participate in amateur sport on the basis of their self-identified gender. Practical steps to create welcoming spaces for participation in sport and physical activity for transgender people and non-binary people could include the installation of appropriate changing rooms, the sensitization of sporting communities, and the enforcement of anti-discrimination laws in the sporting context.

C. Women

62. In addition to the rights outlined in the International Covenant on Economic, Social and Cultural Rights, article 13 of the Convention on the Elimination of All Forms of Discrimination against Women guarantees women equal rights to participate in recreational activities, sports and all aspects of cultural life, without discrimination. This is reinforced by the obligation under article 10 of the Convention on the Elimination of All Forms of Discrimination against Women to take all appropriate measures to eliminate discrimination against women in respect of education, ensuring to women the same opportunities as to men to participate actively in sports and physical education. Article 5 of the same Convention also requires States to eliminate stereotyped roles for men and women, which equally applies in the field of sport and physical activity.

63. Securing the right of women to participate in physical activity can improve women's health. Women experience certain health risks at higher rates than men at various points in their lifespan, which are mitigated by exercise. For example, regular weight-bearing exercise has been shown to reduce the incidence of osteoporosis, a bone disease experienced primarily by postmenopausal women.[51] Risks of other illnesses suffered almost exclusively by women, such as breast cancer, can also be modified through the promotion of physical activity and healthy lifestyles.

[51] Tracey Howe and others, "Exercise for preventing and treating osteoporosis in postmenopausal women", *Cochrane Database of Systematic Reviews*, Issue 7.

64. Women constitute half of the world's population and are a highly heterogeneous group; health risks are not shared equally among all women. Overweight and obesity are increasingly prevalent among adolescent girls from highly urbanized areas, certain ethnic minorities, and those living with disabilities. Moreover, adolescent girls are particularly vulnerable to anxiety and depressive disorders, in comparison to boys.[52] Accordingly, there is a significant need to engage at-risk women and girls in physical activity and sport, particularly at points when activity levels are most likely to drop steeply.

65. The obligation to respect the right to health requires effort in order to combat entrenched discrimination against women in the field of sport and physical activity. Both at the professional and the amateur levels, there remains a worrying gender differential in participation in sport.

66. In some instances, unequal participation of women in sport is directly sanctioned by State policies, in a clear violation of the obligation to respect the right to health. In some countries, nearly all State-supported sports clubs and private gymnasiums are reportedly closed to women. Although there has been a positive shift in the attitude to professional sport recently in certain parts of the world, there is still a strong cultural assumption that women will not engage in exercise. States should ensure that women can exercise their right to participate in and to attend sporting events, as well as to receive physical education.

67. Elsewhere, pernicious practices and beliefs hinder women's equal participation in sport. Despite repeated declarations and calls for action on equality in sport since the 1994 Brighton Declaration on Women and Sport,[53] women's sport remains deprioritized and heavily underfunded globally. Among professional athletes, there are significant disparities between men and women in respect of incomes and prize money. One study found that men receive more prize money than women in 30 per cent of sports.[54] Moreover, men's sport dominates media reporting.[55, 56]

68. These examples reflect deep-seated bias towards men's sport, which diminishes the opportunities for women in sport at all levels. States and other actors must act to shift public consciousness away from a male-dominated sporting culture. States should review their laws, policies and programmes, and amend or repeal those that discriminate against women and girls and prevent them from participating in sport on an equal basis with men.

69. It is encouraging that international sporting bodies are taking steps to improve the status of women in sport. For example, the International Olympic Committee created a commission on women and sport in 1995, and in 2004 the Olympic Charter was amended in recognition of the need for action on women and sport; in addition, various regional intergovernmental bodies have promulgated recommendations and policies concerning sport and gender equity.[57]

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[52] R. Bailey, I. Wellard and H. Dismore, Girls' participation in physical activities and sports: benefits, patterns, influences and ways forward (2005).

[53] International Working Group on Women and Sport (1994).

[54] BBC, "Prize money in sport: BBC Sport study". Available from www.bbc.com/news/uk-29665693.

[55] Cheryl Cooky, Michael Messner and Robin Hextrum, "Women play sport, but not on TV", *Communication and Sport*, vol. 1, No. 3.

[56] Claire Packer and others, "No lasting legacy: no change in reporting of women's sports in the British print media with the London 2012 Olympics and Paralympics", *Journal of Public Health*, vol. 37, No. 1.

[57] Sport for Development and Peace International Working Group, "Sport and gender: empowering girls and women", in *Harnessing the Power of Sport for Development and Peace: Recommendations to Governments* (2008).

70. Specific issues also arise for women in connection with sport and the obligation to protect. There is an alarming broader trend within certain societies towards the controlled feminization of women in the context of sport, including through violence and reprisals against female sportspeople. Women in certain countries, simply by engaging in sport and physical activity, are seen as challenging traditional notions of gender roles in society and become victims of hostility and ostracism by the general population.

71. These attempts to control the behaviour of women through violence, and to dictate what an acceptable body image and acceptable activities are, represent clear violations of their human rights. States should take steps to protect the rights of female athletes, for example through the enforcement of criminal laws against perpetrators of violence and through the development of sensitization and education initiatives to combat negative images and attitudes around women's participation in exercise and sport.

72. States may not directly deny women access to sporting facilities, as this would be in breach of the obligation to fulfil. Nevertheless, it is the case that, in some States, there is a failure to create conditions wherein women can participate effectively in sport and physical activity. Traditional cultural or societal norms may mean that women cannot exercise in public spaces, or are inhibited in doing so. Some women may even risk physical harm or assault when exercising in public. States should take active steps to create safe, gender-sensitive spaces in which women can exercise, appropriate to the country context; these may range from the installation of secure changing facilities to the enforcement of criminal laws that are breached in the sporting context.

73. Moreover, as women's motivations for engaging in exercise often differ from those of men, greater attention to acceptable forms of organized sport may increase female participation. Research has indicated that women frequently place more importance on social aspects of physical activity than on performance outcomes.[58] In order to promote physical activity and sport, States should inform their policies with research, and adopt best practices adapted to the country and to the preferences of women, with meaningful participation by women in the design, implementation, monitoring and evaluation of policies and programmes.

D. Elderly people

74. In its general comment No. 14 (2000) on the right to the highest attainable standard of health, the Committee on Economic, Social and Cultural Rights recognized the importance of an integrated approach to the health of older persons, including preventive, curative and rehabilitative health treatment. Promotion of participation in sport and physical activity is among the most cost-effective interventions that States can undertake in order to prevent morbidity and mortality among older persons and to ensure that they achieve the highest possible standards of physical and mental health.

75. Physically active older people have lower rates of all-cause mortality than their sedentary counterparts, and experience many health benefits, including healthier body mass and improved bone health, and lowered risk of coronary heart disease, high blood pressure, diabetes and cancer. Moreover, regular exercise plays an important role in preventing depression and cognitive decline.[59]

76. In addition to the above-mentioned biomedical benefits, participation in organized sport may have significant benefits for older adults as regards increased social interaction

[58] VicHealth, "Female participation in sport and physical activity" (2015).
[59] WHO, *Global Recommendations on Physical Activity for Health*.

and connectedness. Moreover, sport can be used as a tool to promote "active ageing" — elderly people being active and engaged in society — to combat negative and inaccurate images of the elderly that portray ageing as an inevitable and irreversible decline in function.

77. States should respect the right to health of elderly people by refraining from discriminating in the form of denying access to conditions enabling them to live healthy lifestyles, which includes their access to sporting goods and facilities. States should also protect the right to health of the elderly by creating complaint and recourse mechanisms for those whose rights have been violated and by sensitizing third parties to the needs and abilities of the elderly in the sporting context. Finally, States should fulfil the right to health of the elderly by facilitating or providing goods, services, facilities and information, in the area of sport and exercise, that are available, acceptable, accessible and of high quality.

E. Persons with disabilities

78. Persons with disabilities should have access to, and benefit from, medical and social services that enable them to become independent, prevent further disabilities and support social integration.[60] Moreover, persons with disabilities must be provided with rehabilitation services enabling them to reach and sustain optimum levels of independence and functioning.[61] Furthermore, the Committee on Economic, Social and Cultural Rights has confirmed that private providers of services and facilities, as well as the public health sector, must comply with the principle of non-discrimination. These principles are echoed in article 25 of the Convention on the Rights of Persons with Disabilities, which provides for the right of enjoyment of the highest attainable standard of health for people with disabilities, without discrimination on the basis of disability.

79. Moreover, under article 30 (5) of the Convention on the Rights of Persons with Disabilities, States are required to take appropriate measures to enable persons with disabilities to participate on an equal basis with others in recreational, leisure and sporting activities. These measures include encouraging and promoting the participation of persons with disabilities in mainstream sporting activities at all levels, ensuring that persons with disabilities can organize, develop and participate in disability-specific sporting and recreational activities, and ensuring that persons with disabilities have access to sporting venues and services. The right of children with disabilities to have equal access to play, recreation and leisure and sporting activities is explicitly acknowledged in the Convention. In addition, the Standard Rules on the Equalization of Opportunities for Persons with Disabilities provide guidance on the types of interventions required in relation to sport and healthy lifestyles for persons with disabilities (see rule 11).

80. As physical inactivity is associated with deterioration in the physical and psychological health of persons living with disabilities,[62] participation in sport and physical activity may yield more immediate benefits for them than for the rest of the population — such as improved functional independence and overall quality of life — beyond the amelioration of long-term health risks. Additionally, persons living with disabilities are at higher risk of non-communicable diseases.[63] For these reasons, investment in achieving

[60] Committee on Economic, Social and Cultural Rights, general comment No. 5 (1994) on persons with disabilities.

[61] See E/1995/22.

[62] J. Larry Durstine and others, "Physical activity for the chronically ill and disabled", *Sports Medicine*, vol. 30, No. 3.

[63] WHO, *World Report on Disability* (2011).

equitable health outcomes for this population subgroup is particularly important. However, persons with disabilities are consistently less likely to engage in physical activity than others,[64] and children living with disabilities have been identified as a group requiring particular attention.[65]

81. Encouragingly, sport and physical activity for people with disabilities has increasingly moved away from a "medical-therapeutic" focus on exercise as rehabilitation or treatment[66] towards a more positive, inclusive paradigm incorporating human rights, where attention is focused on the ability and agency of people with disabilities, on better health, and on empowerment and the attainment of new skills.[67] The increased participation of people living with disabilities also has wider societal benefits; it dismantles images of people with disabilities as being passive, inactive and unable to participate, and can potentially increase social cohesion and inclusion through the removal of negative stereotypes.

82. Although it is established in the Convention on the Rights of Persons with Disabilities that States should ensure that persons with disabilities have an opportunity to organize, develop and participate in disability-specific sporting and recreational activities, States are only obliged to encourage and promote the participation, to "the fullest extent possible", of persons with disabilities in mainstream sporting activities. What "the fullest extent possible" means in the context of professional and amateur sport is debatable, and may need further attention.

83. To date, it seems that the appropriateness of participation in mainstream sport at the professional level has been determined on a case-by-case basis. For example, accommodations can be made for persons with disabilities to participate in sports such as golf, which do not alter the fundamental nature of the sport in question, and therefore should be undertaken to avoid discrimination.[68] In situations where accommodations cannot be made without fundamentally changing the nature of the sport, the question of participation of persons with disabilities remains uncertain, and should be further examined by international organizations in consultation with persons with disabilities, to assist States in promulgating relevant policies.

84. Regarding amateur sport, the physical accessibility of mainstream sporting facilities, goods and services should be ensured, for example through the incorporation of appropriate infrastructure in venues. However, physical access can equally be impeded through laws and policies. In particular, persons with psychosocial disabilities may face barriers in accessing what they are entitled to under the right to health, and must be given access to sporting facilities, goods and services without discrimination. This may not necessarily require investment in infrastructure; rather, a focus on developing acceptable services and sensitizing service providers may be required.

[64] James Rimmer and Alexandre Marques, "Physical activity for people with disabilities", *The Lancet*, vol. 380, No. 9838.

[65] WHO, Report of the Commission on Ending Childhood Obesity (2016).

[66] Ralph Richards, "Persons with disability and sport" (3 February 2016).

[67] Sport for Development and Peace International Working Group, "Sport and persons with disabilities", in *Harnessing the Power of Sport for Development and Peace: Recommendations to Governments* (2008).

[68] See *PGA Tour, Inc. v. Martin*, 532 U.S. 661, 121 S. Ct 1879 (2001).

V. Obligations of non-State actors regarding sport and healthy lifestyles and the right to health

85. Although non-State actors do not directly accrue obligations under the right to health as expressed in the International Covenant on Economic, Social and Cultural Rights, they nevertheless incur indirect responsibilities regarding realization of the right. Strong leadership from non-State actors through the incorporation of human rights standards into operations pertaining to sport and healthy lifestyles is important in promoting realization of the right to health.

86. Civil society organizations and national human rights institutions should advocate for the inclusion of sport and healthy lifestyles in relevant national policies, and should ensure that the voices of marginalized and excluded groups, including children, are part of the policy-making process. National human rights institutions can also assist States through information-gathering, monitoring and evaluation.

87. Private entities, including transnational corporations, should ensure that their operations do not undermine the realization of individual health rights. In particular, companies that produce tobacco, food or beverages should abide by industry- or Government-led regulations on marketing products to children in the sporting context. Companies involved in major sporting events must also ensure that their operations meet human rights standards, and must fully implement the Guiding Principles on Business and Human Rights[69] — a responsibility shared with international sporting bodies.

88. A number of entities involved in the organization and operation of major sporting events and competitions incur indirect rights obligations: the International Olympic Committee, the International Paralympic Committee, and the Fédération internationale de football association (FIFA), among others. These bodies have a vital role to play in implementing policies and activities aimed at realizing the right to health in the sporting context. Enhancement of protection of the human rights of athletes should not be perceived as a threat to the continued operation of major events but rather as a means of increasing the confidence of athletes and the public in the integrity of sporting institutions.[70]

89. It is encouraging that human rights are increasingly emphasized in the operations of these organizations, for instance through the International Olympic Committee code of ethics. The recent appointment of an independent human rights expert to review the policies of FIFA in relation to the Guiding Principles on Business and Human Rights is encouraging,[71] as is the implementation by FIFA in 2010 of regulations on the status and transfer of players. However, more must be done to ensure that the right to health of athletes participating in these events is secured, particularly that of children.

90. Moreover, broader human rights concerns exist in regard to major sporting events, including health risks faced by workers on major event infrastructure projects, such as high rates of avoidable morbidity and mortality.

91. Given the human rights violations occurring in the context of these events, and evidence that the interest generated by mega sporting events and professional sport does not appear to translate into mass participation in sport or physical activity,[72] more should be

[69] See A/HRC/17/31.

[70] Paulo David, *Human Rights in Youth Sport*.

[71] FIFA, "FIFA to further develop its human rights approach with international expert John Ruggie" (14 December 2015).

[72] Pedro Hallal and others, "Physical activity: more of the same is not enough", *The Lancet*, vol. 380, No. 9838.

done to ensure that the human rights of everybody who is connected with major sporting events are protected and that these events are not merely held as a spectacle.

VI. Good-practice approaches to sport and healthy lifestyles

92. Specific laws, policies, programmes and interventions embodying human rights standards should be implemented to enable and encourage individuals to participate in sport and physical activity and achieve the highest attainable standard of health. However, selecting appropriate programmes is challenging, given that there is insufficient robust research for a conclusion to be drawn regarding the effectiveness of many programmes involving sport or physical activity, or the research that does exist suggests that many programmes are ineffective. Systematic reviews have detected an absence of high-quality evidence that could support interventions implemented through sporting organizations to promote healthy behaviour change[73] and interventions delivered by sporting organizations to increase participation in sport.[74] A recent systematic review of community-wide interventions for increasing physical activity found minimal evidence of higher rates of participation in physical activity at the population level.[75]

93. However, current research indicates that certain successful interventions share specific common elements. Essential prerequisites, identified by WHO, to large-scale physical activity programmes in developing countries include high-level political commitment/a guiding national policy, funding, stakeholder support, and a coordinating team.[76] Moreover, WHO and its regional offices have developed surveillance tools and materials to promote physical activity which can guide national governments in strengthening and supporting efforts to increase participation.[77]

94. In the consultations connected with the present report, new initiatives reported by States indicated great interest and creativity in regard to the promotion of sport and healthy lifestyles. These included a "Health Academy" programme incorporated into a basic health-care scheme (Brazil); the removal of taxes on sporting goods (Brunei and Mauritius); frameworks for the inclusion of minority groups, namely Roma (Bulgaria); the recognition of sport as a cultural right (Finland); the implementation of school sports programmes, such as "Sports Olympiads" (Georgia); free public sports programmes, including Zumba dancing (Honduras), aerobics classes (Malta) and "School of Health" volunteer-led exercise classes (Slovenia); doctors "prescribing" exercise to patients (Israel); an annual "Sports Day" (Qatar); and citizen-led cycling groups (Saudi Arabia).

95. Although the above-mentioned initiatives are welcomed, there is a paucity of evidence on them. States should monitor and evaluate their programmes, policies and interventions for efficacy and for compliance with human rights standards and obligations, and should ensure that participation by the individuals affected is guaranteed in the design and revision stages.

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[73] N. Priest and others, "Policy interventions implemented through sporting organizations to promote healthy behaviour change", *Cochrane Database of Systematic Reviews*, Issue 3.

[74] N. Priest and others, "Interventions implemented through sporting organizations for increasing people's participation in sport", *Cochrane Database of Systematic Reviews*, Issue 3.

[75] P.R.A. Baker and others, "Community-wide interventions for increasing physical activity", *Cochrane Database of Systematic Reviews*, Issue 5.

[76] WHO, "Review of best practice in interventions to promote physical activity in developing countries", WHO Workshop on Physical Activity and Public Health (Beijing, October 2005).

[77] WHO Regional Office for Europe, "Physical activity strategy for the WHO European region 2016-2025".

V. Conclusions and recommendations

96. Healthy lifestyles have not traditionally been viewed as a rights issue, but their adoption is integral to realization of the right to health. Sport and physical activity are a vital part of healthy lifestyles, and States and other actors incur important obligations to maximize individual capacity to exercise and to live healthfully.

97. The obligation to respect the right to health means that no person should be prohibited from participating in sport or physical activity. States and international sporting bodies must immediately remove discriminatory laws and policies in sport, including those that hinder participation, and tackle discriminatory attitudes and practices.

98. The rights of both professional and amateur athletes, including children, must also be protected. Abuse, violence and discrimination occur too frequently within sport; States are obliged to take steps to prevent rights violations, and to provide adequate rehabilitation, redress and remedy.

99. States should incorporate sport and healthy lifestyles into their national health programming, and consider the health impacts of policies in relevant areas such as urban planning, in order to secure individual participation in sport and in active transport such as cycling. Positive steps must be taken by States to facilitate, provide and promote realization of the right to health through participation in sport. All people must be enabled to access physical education, and education around healthy lifestyles. National human rights institutions have unique roles to play in monitoring and accountability in this area.

100. Finally, private corporations and sporting organizations (including international sporting bodies) have a vital role to play in securing realization of the right to health through sport and healthy lifestyles. These entities should ensure that their policies and programmes, including those around major sporting events, do not undermine health rights, and accord with international human rights law.

101. The Special Rapporteur recommends that States:

(a) Review all laws, policies, regulations and programmes relating to sport and healthy lifestyles for compliance with human rights standards, and immediately amend or remove those that are discriminatory in nature or conflict with human rights;

(b) Ban the advertising, promotion and sponsorship of all children's sporting events, and other sporting events that could be attended by children, by manufacturers of alcohol, tobacco and unhealthy foods;

(c) Create or enforce national human rights protection mechanisms applicable to amateur and professional athletes, ensuring access to justice and redress in the event of rights violations;

(d) Create or update national health-care plans to include strategies concerning the promotion of sport and physical activity and healthy lifestyles, as part of a health in all policies approach;

(e) Create or update school-based physical education to ensure compliance with human rights standards;

(f) Take steps to secure participation in sport for all and the adoption of healthy lifestyles through:

(i) Collaboration between relevant government sectors in developing policies and programmes with health impacts;

(ii) Construction of quality infrastructure such as walking and cycling paths to facilitate equitable access to basic exercise and active transport facilities;

(iii) Measures to facilitate or provide key/at-risk populations access to sporting goods, services, facilities and information;

(iv) Research into, and promotion of, the benefits of engaging in sport and physical activity as part of healthy lifestyles;

(g) Review legislation and adopt policies to ensure that all persons, including women, lesbian, gay, bisexual, transgender and intersex people, people living with disabilities, children, the elderly and other populations that are underserved or face discrimination, are able to participate in and safely enjoy sports;

(h) Require public and third-party providers of sporting and physical activity services to adopt policies consistent with human rights standards, and create or facilitate the production of materials designed to sensitize providers regarding the adoption of a human rights-based approach;

(i) Protect the physical integrity and dignity of all athletes, including intersex and transgender women athletes, and immediately remove any laws, policies and programmes that restrict their participation or otherwise discriminate or require them to undergo intrusive, unnecessary medical examinations, testing and/or procedures in order to participate in sport;

(j) Ensure full participation of the individuals affected in the design and implementation of programmes concerning sport and physical activity;

(k) Periodically and independently monitor and evaluate initiatives concerning sport and physical activity for efficacy, and compliance with human rights standards.

102. The Special Rapporteur recommends that national human rights institutions, non-State actors and sporting bodies:

(a) Periodically and independently monitor and promote realization of the right to health in the context of sport and physical activity (national human rights institutions and civil society);

(b) Reach consensus on policies allowing for unhindered participation in high-level competitive and amateur sport by transgender and intersex people (international sporting bodies);

(c) Remove any policies that require women athletes, including intersex and transgender women athletes, to undergo unnecessary medical procedures in order to participate in competitive sport (international sporting bodies);

(d) Reach consensus on policies concerning the protection of children participating in competitive sport, including in relation to children migrating to participate in high-level/professional sport (international sporting bodies);

(e) Review all policies and operations concerning major sporting events and professional sporting competitions for compliance with the Guiding Principles on Business and Human Rights, and put in place protective mechanisms for athletes, workers and citizenry (international/national sporting bodies; private actors).